

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

OPAL C. CORRICA,
PLAINTIFF,

v.

AMERICAN AIRLINES,
DEFENDANT.

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CASE NO. 3:20-CV-679-B-BK

ORDER


Pursuant to [28 U.S.C. § 636\(b\)](#) and the district judge's *Order of Referral*, [Doc. 58](#), before the Court for determination is *Defendant's Motion to Compel Discovery and for Sanctions* filed on January 25, 2022, [Doc. 56](#). The deadline for Plaintiff to file a response, if she opposed the motion, was February 16, 2022; however, Plaintiff failed to do so. *See* N.D. TEX. LOCAL RULE 7.1 (providing 21 days to respond to a motion). Thus, the Court presumes Plaintiff does not oppose the relief sought. Accordingly, Defendant's motion, [Doc. 56](#), **GRANTED**. Plaintiff is **ORDERED** to provide to Defendant an executed medical records release form **on or before May 10, 2022**, or risk dismissal of this action for failure to prosecute.

Defendant additionally requests an award of attorneys' fees and costs incurred in filing the instant motion. [Doc. 56 at 5](#). Rule 37 of the Federal Rules of Civil Procedure provides that if a motion to compel is granted, the court must order the party whose conduct necessitated the motion, the party or attorney advising that conduct, or both, to pay the movant's reasonable expenses and attorneys' fees incurred in making the motion. [FED. R. CIV. P. 37\(a\)\(5\)\(A\)](#). The court must not order this payment, however, if (1) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action; (2) the opposing party's nondisclosure, response, or

objection was substantially justified; or (3) other circumstances make an award of expenses unjust.
Id.

Upon consideration of the circumstances presented here, the Court finds that neither of the statutory exceptions to an award of fees and costs is present. Therefore, Defendant is awarded the reasonable attorneys' fees and costs incurred in its prosecution of the instant motion to compel. To that end, Defendant is directed to file a separate motion for attorneys' fees and costs—with evidence establishing the amount and reasonableness of the same—**on or before May 10, 2022**. Defendant's exhibits may be filed under seal. Plaintiff may file a response objecting to the reasonableness of the amount sought, **no later than 21 days after Defendant's filing**.

SO ORDERED on April 19, 2022.



RENEE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE